

Indiana Department of State Revenue

Revenue Ruling #2006-01ST

January 9, 2006

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales and Use Tax-Imposition

Authority: I.C. 6-2.5-2-1(a), IC 6-2.5-4-10, IC 6-2.5-1-5 (a), IC 6-2.5-2-2 (a).

The taxpayer requests that the department rule on the proper sales tax treatment of reimbursement of business personal property tax.

STATEMENT OF FACTS

The taxpayer is a corporation that leases business personal property in the state of Indiana. The taxpayer files the business personal property tax returns and makes payments to the proper taxing jurisdictions. The taxpayer then separately invoices its customers for the business personal property taxes on an annual basis. The taxpayer requests a ruling on two issues. First, are the monies received for reimbursement of business personal property taxes considered part of the taxpayer's rental gross receipts or gross retail income? Secondly, if the receipts are considered part of the taxpayer's rental gross receipts, then are they subject to Indiana sales tax?

DISCUSSION

I.C. 6-2.5-2-1(a) imposes sales tax on retail transactions made in Indiana. Leases of tangible property are specifically defined as retail transactions subject to the Indiana sales and use tax at IC 6-2.5-4-10.

The taxpayer's first question concerns whether or not the reimbursement of business personal property taxes is part of its gross receipts or gross retail income from the lease transaction. "Gross retail income" is defined at IC 6-2.5-1-5 (a) in pertinent part as follows:

Except as provided in subsection (b), "gross retail income:" means the total gross receipts, or any kind or character, received in a retail transaction, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

(1) the seller's cost of the property sold; . . .

In the taxpayer's situation, the taxpayer has the obligation to pay business personal property taxes. The taxpayer receives reimbursement from its customers for these tax payments. The taxpayer is not allowed a deduction for the cost of the property sold in determining the amount of its gross retail income. Therefore, the monies received as reimbursement for business property taxes paid constitute gross retail income to the taxpayer.

Pursuant to IC 6-2.5-2-2 (a), "[t]he state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction. . . . "Indiana sales tax is imposed on the taxpayer's leases of business property to Indiana customers. The taxpayer's total gross retail income from the leases includes the reimbursement for business personal property taxes paid. Therefore, the receipts from the reimbursements paid by the customers are subject to the Indiana sales tax.

RULING

1. The monies received by the taxpayer for reimbursement of business personal property taxes are considered part of the taxpayer's rental gross receipts or gross retail income.
2. The taxpayer's receipts of the reimbursements are considered part of the taxpayer's rental gross receipts subject to Indiana sales tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

INDIANA DEPARTMENT OF STATE REVENUE